

# United States Senate

WASHINGTON, DC 20510

October 20, 2022

Ambassador Katherine Tai  
United States Trade Representative  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Tai:

We write to express our concerns about the recent Section 301 petition on seasonal and perishable agricultural products from Mexico. Section 301 is a formidable tool in America's trade enforcement arsenal. However, its effectiveness depends on ensuring that its use is supported by a strong and credible foundation of evidence.

The Section 301 petition against Mexico does not rest upon such a foundation as reflected by the fact it does not comply with the U.S. Trade Representative's (USTR) regulation for such petitions. The petition is inconsistent with the regulation's requirements because it:

- fails to identify the economic interests of the petitioners or the “degree to which U.S. commerce is burdened or restricted” by the purported practices at issue;
- does not “[d]emonstrate that rights of the United States under a trade agreement are not being provided; or show the manner in which the act, policy or practice ... or [that the practice at issue] is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce”;
- lacks “an analysis ... that the subsidy ... is inconsistent with any trade agreement and ... burdens or restricts United States commerce”;
- lacks any explanation or description of the “methodology to calculate the burden on U.S. commerce”; and
- fails to explain the alleged export targeting scheme, including “how and to what degree exports of the affected products by that enterprise, industry, or group have become more competitive.”

If the petition is not rejected, it will undermine the credibility of Section 301 as an effective tool and raise the cost of fresh fruits and vegetables during a time when Americans across the country are struggling with the increasing cost of food.

International trade is critical to the U.S. food supply and enables the U.S. agricultural industry to meet consumer demand. Any agricultural trade issue with Mexico is best addressed via the dispute settlement mechanism included in the United States—Mexico—Canada Agreement (USMCA). The USMCA is intended to improve regional cooperation and avoid using unilateral actions like Section 301 investigations against our neighbors and largest trading partners.

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<sup>1</sup>19 C.F.R. § 2006.1.

Working with Mexican and Canadian partners, American consumers have confidence that there will be fresh fruits and vegetables on the shelves every time they visit the grocery store. As you know, some fresh fruits and vegetables are not domestically available in sufficient volume during certain months. Our trading partners help fill in gaps in our domestic industry to ensure consumers have access to good food throughout the year.

Mexico is a critical market for U.S. food and agriculture products including, beef, pork, poultry, wheat, rice, dairy, and corn. In 2021, U.S. agricultural exports to Mexico set a record of \$25.5 billion, a nearly 40-percent increase, making Mexico the second-largest export destination for U.S. agricultural products. The United States is Mexico's top supplier of agricultural goods with a market share of nearly 70 percent.

If USTR does not reject this petition, it could drive Mexico to retaliate with its own trade investigations and remedies. It would be devastating for U.S. exporters to lose any access to such a major export market.

As you consider this petition, we ask you to recognize the importance of cross-border trade and consumer needs, and urge you to not take any action that would harm the significant economic benefit of the agricultural industry on the U.S. economy. We respectfully urge you to reject the petition in the interests of American consumers, workers, and agricultural exporters.

Sincerely,



Chuck Grassley  
United States Senator



Patty Murray  
United States Senator



Roger Marshall, M.D.  
United States Senator



Joni K. Ernst  
United States Senator